

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MASSACHUSETTS

TOWN OF ARLINGTON,

Plaintiff.

v.

ITRON, INC. and
ELSTER AMCO WATER, LLC, as
successor in interest to
ELSTER AMCO WATER, INC.,

CIVIL ACTION NO.

Defendants.

NOTICE OF REMOVAL

TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS:

Pursuant to the provisions of 28 U.S.C. § 1446(a) and Local Rule 81.1, defendant, Itron, Inc., (“Itron”) hereby gives notice of removal of this action to the United States District Court for the District of Massachusetts from the Superior Court of Massachusetts in and for Middlesex County, and in support thereof, respectfully states as follows:

1. Itron is a defendant in a civil action brought in the Superior Court of the State of Massachusetts, in and for Middlesex County, styled as *Town of Arlington v. Itron, Inc., and Elster Amco Water, LLC, as Successor in Interest to Elster Amco Eater, Inc.*, (“Elster Amco”), *Civil Action No. 2181-CV-01502* (the “Arlington Action”). In this action, the plaintiff alleges counts against Itron of Breach of Express Warranty, Breach of Contract, and violation of M.G.L. c. 93A.

2. Itron was served with a copy of the Summons and Complaint in the *Arlington* Action on September 22, 2021. A true copy of the Summons, Complaint, and Civil Action Cover Sheet in the *Arlington* Action, as served upon Itron, is attached to this Notice of Removal as

Exhibit A. Itron's Notice of Removal is filed within thirty (30) days after receipt by Itron of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, as required by 28 U.S.C. § 1446(b).

3. Both Itron and Elster Amco, together ("all Defendants"), consent to removing this action to this Court.

Venue

4. The *Arlington* Action is a suit of a wholly civil nature brought in the Superior Court of the State of Massachusetts, in and for Middlesex County. The United States District Court for the District of Massachusetts is therefore the proper forum and venue to which this action may be removed under the provisions of 28 U.S.C. §§ 101 and 1441(a).

Grounds for Removal: Diversity of Citizenship

5. This Court has original jurisdiction to entertain this action because the parties to this case are each citizens of different states pursuant to 28 U.S.C. §§ 1332(a)(1), 1441(a).

6. The plaintiff, Town of Arlington, is a municipal corporation located in Middlesex County in the Commonwealth of Massachusetts, with town offices located at 730 Massachusetts Avenue, Arlington, Massachusetts.

7. The defendant, Itron, is a corporation existing and incorporated under the laws of the state of Washington, with a principal place of business located at 2111 N. Molter Road, Liberty Lake, Washington, 99019.

8. The defendant, Elster Amco, is limited liability company existing and incorporated under the laws of the state of Florida, with a principal place of business located at 10 SW 49th Avenue, Building 100, Ocala, Florida, 34474. No member of Elster AMCO Water LLC is a citizen of Massachusetts.

Amount in Controversy

9. The plaintiff claims that it is likely that damages will exceed the sum of \$75,000, exclusive of interest and costs pursuant to 28 U.S.C. § 1332(a)(1). See Exhibit A, Civil Action Cover Sheet (Plaintiff alleges \$5,070,966.82 in damages). Removal of this action is neither prohibited by 28 U.S.C. §1445, nor §1441(b)(2).

Notice

10. Pursuant to 28 U.S.C. § 1446(d), Itron has provided notice of removal to the adverse party, Town of Arlington, through written notice to counsel of record; and with the Clerk of the Superior Court of the Commonwealth of Massachusetts, in and for Middlesex County, attached hereto as Exhibit B.

State Court Proceedings

11. Pursuant to 28 U.S.C. § 1446(d), Itron has requested that the Clerk of the Superior Court of the Commonwealth of Massachusetts, in and for Middlesex County, provide certified or attested copies of all records and proceedings in the *Arlington* Action and certified or attested copies of all docket entries thereon. Itron will cause such attested or certified copies of the state court record to be filed with this Court within thirty (30) days hereof as required, and within (28) days hereof as required by Local Rule 81.1.

Admission

12. Counsel for Itron is duly admitted to practice before this Court and signs this Notice of Removal in accordance with the requirements of Fed. R. Civ. P. 11.

WHEREFORE, the defendant, Itron, Inc., hereby requests that the above-referenced action now pending in the Superior Court of the Commonwealth of Massachusetts, in and for Middlesex County, be removed from that Court to the United States District Court for the District of Massachusetts.

ITRON, INC., By Its Attorneys,

/s/ Michael J. Racette

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CERTIFICATE OF SERVICE

The undersigned understands that the following counsel of record is not yet registered on the Court's CM/ECF database in connection with this matter. (1) As a result, these individuals will not receive from the Court electronic notification of the filing of the foregoing Notice of Removal, filed via ECF; (2) will not have immediate access to this document through the Court's website; and (3) will receive a paper copy of the foregoing from the undersigned upon filing.

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